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February 11, 2005

TO: Each Supervisor

FROM: Thomas Garthwaite, M.D.   
Director and Chief Medical Officer

SUBJECT: **ANALYSIS OF RESPONSIBILITIES RELATED TO FQHC LOOK-ALIKE DESIGNATION**

This is in response to Supervisor Molina and Supervisor Burke's November 30, 2004, motion to report back to your Board with a detailed analysis of the responsibilities of the Board of Supervisors, the Department of Health Services (DHS) and the Community Health Center Board (CHCB), as they relate to the Federally Qualified Health Center (FQHC) Look-Alike entity proposed in the application submitted to the Health Resources and Services Administration (HRSA) on December 21, 2004. The application seeks FQHC Look-Alike status for three of our Comprehensive Health Centers (CHC), H. Claude Hudson, Hubert H. Humphrey and Edward R. Roybal. If the application is approved by HRSA, these facilities will constitute an "FQHC Look-Alike entity" and will be eligible to receive enhanced reimbursement from Medicare and Medi-Cal.

Since the County structure does not currently meet the regulatory governance requirements, your Board approved ordinance #2004-0071 to establish a Community Health Center Board (CHCB) to meet those requirements. The CHCB will work in collaboration with your Board and DHS to govern the facilities that are part of the FQHC Look-Alike entity.

As described below, your Board, the CHCB, and DHS all share some portion of the responsibility for operating the FQHC Look-Alike entity, and in many areas have concurrent or overlapping duties and responsibilities.

**BOS Responsibilities:**

Your Board will be responsible for appointing the CHCB membership. In the case of the initial membership of the CHCB, the Director of DHS, will nominate qualified individuals to serve on the CHCB for appointment by your Board. Except in the case of the initial membership of the CHCB, the CHCB will nominate qualified individuals to fill each vacancy. The names of the CHCB nominees will be transmitted to your Board for consideration and approval at least sixty days prior to expiration of current appointments.

Your Board may choose not to appoint one or more of the individuals nominated, in which case alternative nominations will be submitted to your Board for approval.

Your Board may remove any member of the CHCB prior to the expiration of his or her term by a three-fifths vote. No member will be appointed to serve more than three consecutive terms. However, your Board may, by order, extend this length of service or waive this limit for individuals or for the CHCB as a whole. Therefore, your Board retains the sole authority to appoint, CHCB members.

As required by California law, your Board will retain ultimate authority to establish the overall budget related to the operations of the FQHC Look-Alike entity. The budget process for the FQHC Look-Alike entity will start, as with all County entities, with DHS staff working with the CAO to develop a preliminary budget. This budget must ultimately be approved by the CHCB prior to being presented to your Board for adoption. It would violate federal regulations for your Board to adopt a budget that was inconsistent with the budget approved by the CHCB. However, the Board's discretion with respect to the remaining portions of the DHS' budget has not changed.

Although, as discussed below, the CHCB has responsibility for establishing the policies for the operation of the FQHC Look-Alike entity, your Board continues to have the right and responsibility for setting general policies on fiscal and personnel matters that affect the FQHC Look-Alike entity. Thus, your Board retains the exclusive authority to set salaries and benefits for employees working at the FQHC Look-Alike entity, to enter into Memoranda of Understanding with unions, and, acting through the CAO and Auditor-Controller, to establish financial accounting practices and procedures, including general ledger maintenance, and cash handling requirements.

#### **DHS Responsibilities:**

One of DHS' responsibilities will be to nominate the initial CHCB and to assist the CHCB in the nomination of subsequent members. In doing so, every effort would be made to ensure that CHCB members have the necessary experience needed to govern the FQHC Look-Alike entity. However, the requirements imposed by HRSA regarding the board composition may result in the appointment of members who are primarily representative of the communities served, and may not have the experience needed to oversee the delivery of health care services to medically indigent populations. In that event, DHS staff may have to take a more assertive role in advising the CHCB.

DHS will be responsible for nominating prospective candidates for the position of FQHC Look-Alike Executive Director (ED). The CHCB will have the authority to approve and remove the ED from that position. The ED will be a DHS employee and the approval or removal of the ED shall not affect the employee's County DHS employment status. The initial ED will be appointed by DHS. The right formally to establish policy for the FQHC Look-Alike entity, particularly as it relates to scope of services, hours of operation and patient grievance procedures, belongs to the CHCB.

However, DHS can and will have some input into these policy decisions. The CHCB ordinance contains the following provision: "Prior to adopting any policy affecting the financing or operation of the County FQHC, the CHCB shall provide a copy of the draft policy to the Director of Health Services, or his designee, and shall provide the Director a reasonable opportunity of no less than 14 days to comment on such draft policy." Therefore, while DHS would be able to make recommendations regarding any policy changes related to scope of services, hours of operation and patient grievance procedures for the FQHC Look-Alike entity, the CHCB will have final authority over these areas of responsibility. DHS or your Board will not be able to overrule decisions related to the CHCB's three primary areas of authority, although the CHCB's decisions must be made within the confines of the budget adopted by your Board.

The policy-making authority to be exercised by the CHCB, like the policy-making authority of any governing body, exists on a fairly high, general level. DHS personnel will make the day-to-day management decisions for the FQHC Look-Alike facilities. Moreover, as staff to the CHCB, they will be able to influence the decisions of the CHCB by the recommendations they bring to it.

If HRSA approves the DHS FQHC Look-Alike application, the staff at the three affected CHCs will have dual reporting responsibilities within the Department. In addition to continuing to report through their DHS cluster or network administrator, the CHCs will also report to the CHCB through the FQHC Look-Alike executive director on matters which require governing body attention. Such dual reporting could lead to conflict between the CHCB and cluster or network administrators over certain policies and practices. However, if it is a matter that would be within the normal discretion of a governing body to dictate and is not in one of the areas where authority is reserved to your Board, the position of the CHCB must take precedent. The attached organization chart illustrates the dual reporting relationships.

Following the initial FQHC Look-Alike designation, a request will be made to expand the scope of the entity to include the MACC and the remaining CHCs and health centers which will also have dual reporting responsibilities.

### **CHCB Responsibilities:**

Pursuant to a process to be established which is consistent with County civil service requirements, the CHCB will have the authority to approve and remove individuals for the position of the FQHC executive director, who will be assigned direct administrative responsibility for the operation of the FQHC Look-Alike entity. While the CHCB will have authority to approve or remove the ED, the individual will be selected from candidates nominated by the Director of Health Services, or his designee, and will be a DHS employee.

The CHCB is to act as the governing body, and as such, will be the body that sets general policy for FQHC Look-Alike in areas not specifically reserved to your Board. (As noted above, your Board has retained authority over finance and personnel systems.) In addition, there are three primary areas where it has been given specific control: 1) adoption of policies identifying the services to be delivered at the FQHC Look-Alike entity; 2) identification of service delivery locations and hours during which services are to be provided; and 3) development and

implementation of patient grievance procedures. Thus, the CHCB has the authority to provide a different group of services, change the location at which these services will be offered, change the hours during which these services are provided, and/or set patient grievance procedures. Although the Director of Health Services will be given 14 days to comment on any prospective policy changes regarding FQHC Look-Alike operations, and although these decisions must be made within the confines of the BoS-approved budget, the CHCB will maintain ultimate authority in the specific areas outlined above. This may result in potential service coordination issues between the FQHC entity and other DHS outpatient facilities.

The CHCB must conduct an annual evaluation of the FQHC Look-Alike entity's effectiveness in making services available and accessible to residents living in the service areas. Such evaluation shall cover, but not be limited to, utilization patterns, productivity, patient satisfaction, and achievement of program objectives. The CHCB's annual evaluation of the FQHC Look-Alike entity's ability to provide accessible services to the communities served could be problematic for DHS and your Board if deficiencies are found and recommendations for corrective action are not implemented. However, the CHCB's annual evaluation could also promote standardization and consistency in evaluation criteria and practices for all facilities that are part of the FQHC Look-Alike entity.

The CHCB will also be responsible for adopting quality of care audit procedures. Both the patient grievance procedure and the quality of care audit procedures will be specific to the FQHC Look-Alike entity. DHS staff will need to work with the CHCB to assure coordination between DHS quality assurance activities and the process adopted by the CHCB. Finally, the CHCB is specifically responsible for assuring compliance with state, federal and local law. This means that they may take an independent position on what constitutes legally compliant behavior than is taken by DHS at the other County facilities.

HRSA is clear in its support of Joint Commission on Accreditation of Health Care Organizations (JCAHO) standards. Accordingly, although compliance is not technically required, the CHCB should abide by the same JCAHO rules related to governance bodies that are followed by DHS and your Board in the governance of all DHS facilities.

TLG:wf:dp:al

Attachment

c: Chief Administrative Officer  
County Counsel  
Executive Officer, Board of Supervisors

# FQHC Look-Alike Organization Chart

